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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SWITCH, LTD.,
a Nevada limited liability company,

Plaintiff,

vs.

STEPHEN FAIRFAX; MTECHNOLOGY,
INC.;
DOES 1 through 10; and ROE ENTITIES
through 20, inclusive,

Defendants.

Case No.: 2:17-cv-02651-GMN-EJY

**DECLARATION OF STEPHEN
FAIRFAX IN SUPPORT OF
DEFENDANTS' REPLY IN SUPPORT
OF REQUEST FOR A PRETRIAL
CONFERENCE**

I, STEPHEN FAIRFAX, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness could and would testify competently thereto.

2. Individually, I am a Defendant in this matter.

3. I am the President of MTechnology, Inc. ("MTech"), another Defendant in this suit.

4. I make this declaration in my individual capacity and on behalf of MTech.

5. I first toured a data center in 1973. I have performed calculations of data center reliability professionally since 1994.

6. I do not and have never designed data centers.

7. One of MTech's customers is Aligned Data Centers ("Aligned"). Aligned is a primary competitor of Switch. Over the course of performing reliability calculations of Aligned's data centers,

1 MTech has obtained a great deal of sensitive, confidential information about Aligned's data centers
2 and its business.

3 8. MTech additionally possesses sensitive and confidential information of other MTech
4 clients that compete with Switch.

5 9. On August 28, 2018 at 10:00 a.m., I met with Sam Castor and Anne-Marie Birk, both
6 of whom are in-house counsel for Switch, in Boston, Massachusetts. Accompanying me to that
7 meeting were Marc Randazza, my attorney in this case, and Steve Bauer, a patent attorney with
8 Proskauer Rose in Boston.

9 10. Mr. Castor and Ms. Birk requested the meeting and chose the 10:00 a.m. start time. I
10 was puzzled when they began the meeting by stating that it needed to be short because they had a
11 flight to catch back to Las Vegas at noon.

12 11. I began by informing Mr. Castor and Ms. Birk that neither MTech nor I designed data
13 centers and that MTech merely provided reliability analyses for Aligned's data centers.

14 12. Mr. Castor and Ms. Birk apparently did not believe me. In fact, even though none of
15 this is in Switch's Complaint, they accused me without evidence of masterminding a plot whereby I
16 provided Switch's trade secrets to multiple competitors.

17 13. Despite Switch's odd allegations against me and MTech, when Switch proposed that
18 they would dismiss the case if a forensic examination of MTech's hard drives revealed nothing
19 actionable against me or MTech, I agreed to explore that possibility. Specifically, we discussed that the
20 parties would select an e-discovery firm, then define search terms or keywords to limit the scope of
21 the search.

22 14. During that meeting, either Mr. Castor or Ms. Birk informed me that MTech and I
23 were not Switch's primary targets and requested assistance from me in a dispute Switch was planning
24 on instituting against Aligned. Switch's conduct at this meeting and throughout this case has
25 confirmed my suspicions that the motivation for filing this lawsuit was to obtain confidential and
26 sensitive information belonging to Aligned and other competitors of Switch.

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
2 correct.

3 Executed on: September 23, 2019

4 **Stephen**
5 **Fairfax**

Digitally signed by Stephen Fairfax
DN: cn=Stephen Fairfax,
o=MTechnology, Inc.,
ou=President,
email=fairfax@mtechnology.net,
c=US
Date: 2019.09.23 13:28:20 -05'00'

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Stephen Fairfax